

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DWIGHT MCINTYRE,

Plaintiff,

v.

STATE OF NEVADA EX REL et al.,

Defendants.

Case No. 2:20-cv-00848-GMN-NJK

ORDER

This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. Docket No. 1. Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on April 21, 2021. Docket No. 3. The follow-up order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. Docket Nos. 6, 10. The Office of the Attorney General has now filed a status report indicating that settlement has not been reached and informing the Court of its intent to proceed with this action. Docket No. 14.

For the foregoing reasons, **IT IS ORDERED** that:

1. Plaintiff's application to proceed *in forma pauperis*, Docket No. 1, is **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In the event that this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

2. Plaintiff is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor.

3. Pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform Act, the Nevada Department of Corrections will forward payments from the account of **Dwight McIntyre, #92310** to the Clerk of the United States District Court, District of Nevada, 20% of the preceding month's deposits (in months that the account exceeds \$10.00) until the full \$350 filing fee has been

1 paid for this action. The Clerk of the Court will send a copy of this order to the Finance Division
2 of the Clerk's Office. The Clerk will send a copy of this order to the attention of **Chief of Inmate**
3 **Services for the Nevada Department of Corrections**, P.O. Box 7011, Carson City, NV 89702.

4 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and a copy
5 of Plaintiff's complaint (Docket No. 4) on the Office of the Attorney General of the State of
6 Nevada by adding the Attorney General of the State of Nevada to the docket sheet. This does not
7 indicate acceptance of service.

8 5. Service must be perfected no later than **December 13, 2021**, pursuant to Fed. R.
9 Civ. P. 4(m).

10 6. Subject to the findings of the screening and follow-up orders (Docket Nos. 3, 6),
11 no later than **October 5, 2021**, the Attorney General's Office shall file a notice advising the Court
12 and Plaintiff of: (a) the names of the defendants for whom it accepts service; (b) the names of the
13 defendants for whom it does not accept service, and (c) the names of the defendants for whom it
14 is filing the last-known-address information under seal. As to any of the named defendants for
15 whom the Attorney General's Office cannot accept service, the Office shall file, under seal, but
16 shall not serve the inmate Plaintiff the last known address(es) of those defendant(s) for whom it
17 has such information. If the last known address of the defendant(s) is a post office box, the
18 Attorney General's Office shall attempt to obtain and provide the last known physical address(es).

19 7. If service cannot be accepted for any of the named defendant(s), Plaintiff shall file
20 a motion identifying the unserved defendant(s), requesting issuance of a summons, and specifying
21 a full name and address for the defendant(s). For the defendant(s) as to which the Attorney General
22 has not provided last-known-address information, Plaintiff shall provide the full name and address
23 for the defendant(s).

24 8. If the Attorney General accepts service of process for any named defendant(s), such
25 defendant(s) shall file and serve an answer or other response to the complaint (Docket No. 4) no
26 later than **November 15, 2021**.

27 9. Plaintiff shall serve upon defendant(s) or, if an appearance has been entered by
28 counsel, upon their attorney(s), a copy of every pleading, motion or other document submitted for

1 consideration by the Court. If Plaintiff electronically files a document with the Court's electronic-
2 filing system, no certificate of service is required. Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-
3 1(b); Nev. Loc. R. 5-1. However, if Plaintiff mails the document to the Court, Plaintiff shall
4 include with the original document submitted for filing a certificate stating the date that a true and
5 correct copy of the document was mailed to the defendants or counsel for the defendants. If
6 counsel has entered a notice of appearance, Plaintiff shall direct service to the individual attorney
7 named in the notice of appearance, at the physical or electronic address stated therein. The Court
8 may disregard any document received by a district judge or magistrate judge which has not been
9 filed with the Clerk, and any document received by a district judge, magistrate judge, or the Clerk
10 which fails to include a certificate showing proper service when required.

11 10. This case is no longer stayed.

12 DATED: September 14, 2021.

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15 NANCY J. KOPPE
16 UNITED STATES MAGISTRATE JUDGE
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